

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION**

**MARJORIE ANN MEHLIN and  
JOHN DIXON MEHLIN**

**PLAINTIFFS**

**v.**

**CASE NO. 1:14-cv-00819**

**CBS CORPORATION, ET AL.**

**DEFENDANTS**

**INTERNATIONAL PAPER COMPANY'S REPLY IN SUPPORT OF ITS  
MOTION TO DISMISS**

On August 13, 2014, Defendant International Paper Company ("IP") filed its Rule 12(b)(6) Motion to Dismiss Plaintiffs' Complaint for failure to state a claim upon which relief could be granted. At the time IP filed its Motion to Dismiss, the only complaint on file with this Court was Plaintiffs' original Complaint, which was filed on July 14, 2014.

Plaintiffs' original Complaint contained six factually unsupported and improperly pled causes of action against IP – general products liability, strict products liability, negligence, conspiracy, negligence per se, and punitive damages.

In response to IP's Rule 12(b)(6) Motion, Plaintiffs filed a response brief (Dkt. #21) and a First Amended Complaint<sup>1</sup> (Dkt. #22) which they contend now makes "viable legal claims against Defendant and supports those claims, in part, with factual information." (Dkt. #21 at 1.) In other words, Plaintiffs have conceded that their original Complaint was insufficient to state a cause of action against IP, thus rendering IP's Motion moot.

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<sup>1</sup> The First Amended Complaint no longer asserts conspiracy or negligence per se causes of action against IP. Instead, Plaintiffs now assert claims against IP for general products liability, strict products liability, negligence, premises owner liability, and punitive damages.

IP will timely file a responsive pleading to Plaintiffs' First Amended Complaint.

Counsel for International Paper Company

/s/ Tanya D. Ellis

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### **CERTIFICATE OF SERVICE**

The undersigned certifies that on September 16, 2014, the foregoing was filed with the Clerk of the Court for the United States District Court for the Eastern District of Wisconsin using the CM/ECF system, which will send notification of such filing upon all parties who have appeared.

/s/ Tanya D. Ellis  
Tanya D. Ellis